

**CHAPTER 146**  
**REGULATION OF LOAN BROKERS**  
*S.F. 336*

**AN ACT** regulating the activities of loan brokers and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 535C.1 TITLE. This chapter may be cited as the "Iowa Loan Brokers Act".

Sec. 2. NEW SECTION. 535C.2 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Loan broker" or "broker" means a person who, in return for consideration to be paid by the borrower before the loan broker or broker has obtained a loan for the borrower or has made a commitment to make a loan, agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

2. "Loan" means an agreement to advance money or property in return for the promise that payments will be made for use of the money or property.

3. "Loan brokerage agreement" or "agreement" means a written agreement in which a broker agrees to do either of the following:

- a. Obtain a loan for the borrower or assist the borrower in obtaining a loan.
- b. Consider making a loan to the borrower.

4. "Borrower" means a person who seeks the services of a loan broker.

5. "Administrator" means the commissioner of insurance or the deputy appointed under section 502.601.

Sec. 3. NEW SECTION. 535C.3 DISCLOSURE STATEMENT REQUIRED.

1. At least seven days before the borrower signs an agreement for the services of a loan broker, or at least seven days before the borrower gives the broker any consideration, whichever first occurs, the broker shall give the borrower a written disclosure statement. The cover sheet of the statement shall have printed, in at least ten point boldface capital letters the title: "DISCLOSURES REQUIRED BY IOWA LAW". The following statement, printed in at least ten point type, shall appear under the title:

"The state of Iowa has not reviewed and does not approve, recommend, endorse, or sponsor any loan brokerage agreement. Neither has the state verified the information contained in this disclosure. If you have questions, seek legal advice before you sign a loan brokerage agreement."

Only the title and the statement shall appear on the cover sheet.

2. The body of the document shall contain the following information in the following order:

a. The name of the broker; names under which the broker does, has done, or intends to do business; and the name of a parent or affiliated company, if any.

b. Whether the broker does business as an individual, partnership, corporation, or any other organizational form of the broker's business.

c. How long the broker has done business.

d. The number of loan brokerage agreements the broker has entered in the most recent calendar year.

e. The number of loans the broker has obtained for borrowers in the most recent calendar year.

f. That a financial statement is on file with the administrator.

g. A description of the services the broker agrees to perform for the borrower.

h. The conditions under which the borrower is obligated to pay the broker. This disclosure must be in boldface type.

i. Either subparagraph (1) or (2), as appropriate:

(1) "As required by Iowa law, this loan broker has secured a bond by \_\_\_\_\_

\_\_\_\_\_

name and address of surety company

a surety authorized to do business in Iowa. Before signing an agreement with the broker, you should check with the surety company to determine the bond's current status."

(2) "As required by Iowa law, this loan broker has established a trust account \_\_\_\_\_

\_\_\_\_\_

number of the account

with \_\_\_\_\_

name and address of the financial institution

Before signing an agreement with the broker, you should check with the financial institution to determine the current status of the trust account."

j. The names, business addresses, titles and principal occupations for the past five years of all officers, directors, or persons occupying a similar position responsible for the broker's business activities.

k. Other information the administrator requires.

**Sec. 4. NEW SECTION. 535C.4 SURETY BOND OR TRUST ACCOUNT REQUIRED.** A loan broker shall obtain a surety bond or establish a trust account. The bond or account shall be in the amount of ten thousand dollars and in favor of the state of Iowa. The bond shall be issued by a surety company authorized to do business in this state. The trust account shall be established with a financial institution, as defined in section 422.61, subsection 1, located in Iowa. The administrator shall act as custodian of the bond or account for borrowers entering loan brokerage agreements with the loan broker. Only the administrator may disburse funds from the trust account. A borrower, damaged by a broker's violation of a loan brokerage agreement entered into with the borrower or by the broker's violation of this chapter, may bring an action against the bond or trust account and may receive payment from the surety or trustee. The surety or trustee is liable only for actual damages arising from a violation. The aggregate liability of the surety or trustee from all actions against a broker shall not exceed the amount of the bond or trust account. The amount of the bond or account shall be distributed pro rata among all borrowers bringing actions against the bond or account within a time designated by the administrator and whose claims are either settled in favor of the borrower or otherwise found to be valid.

The administrator may adopt rules establishing the term and length of the surety bond or trust account.

A broker who does not obtain a bond or establish an account is guilty of a serious misdemeanor.

**Sec. 5. NEW SECTION. 535C.5 FILING WITH THE ADMINISTRATOR—PENALTY.**

1. Before advertising or making other oral or written representations, or acting as a loan broker in this state, a loan broker shall file with the administrator copies of the disclosure statement required under section 535C.3, the most recent financial statement of the broker, and either of the following:

a. The bond required under section 535C.4.  
b. The formal notification from the financial institution that the trust account required under section 535C.4 is established.

2. The broker shall amend these filings no less than annually and, in addition, shall file amendments within forty-five days of any material change in the following:

a. The status of the bond or account.  
b. The financial statement of the broker.  
c. Information required by the disclosure statement. A broker who does not file the copies required is guilty of a serious misdemeanor.

3. The broker shall pay a fifty dollar filing fee with the initial disclosure statement filed under subsection 1. A twenty-five dollar fee shall be charged for each amendment under subsection 2.

4. The administrator shall review the disclosure statement for compliance with requirements imposed under this chapter.

5. The administrator may by order prohibit a broker from advertising, making oral or written representations, or acting as a loan broker if the order is found to be in the public interest and either of the following apply:

a. The disclosure statement or financial statement on file is incomplete in any material respect or contains any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. The loan broker has willfully violated or willfully failed to comply with any provision of this chapter.

6. The information contained or filed under this section may be made available to the public under such rules as the administrator prescribes.

Sec. 6. NEW SECTION. 535C.6 PENALTIES. A broker is guilty of a serious misdemeanor for failure to do any of the following:

1. Obtain and maintain a surety bond or establish and maintain a trust account as required in section 535C.4.

2. Make accurate and timely filings as required in section 535C.5.

Sec. 7. NEW SECTION. 535C.7 WRITTEN AGREEMENTS REQUIRED. A loan brokerage agreement shall be in writing and signed by the broker and the borrower. The broker shall give the borrower a copy of the agreement when the borrower signs the agreement.

Sec. 8. NEW SECTION. 535C.8 WAIVER OF RIGHTS. A waiver of this chapter by a borrower prior to or at the time of entering into a loan brokerage agreement is contrary to public policy and is void. An attempt by a loan broker to have a borrower waive any rights given in this chapter is a violation of this chapter.

Sec. 9. NEW SECTION. 535C.9 RULES. The administrator may adopt rules according to chapter 17A as necessary or appropriate to implement the purposes of this chapter.

Sec. 10. NEW SECTION. 535C.10 REMEDIES.

1. If a broker materially violates the loan brokerage agreement, the borrower may, upon written notice, void the agreement. In addition, the borrower may recover all moneys paid the broker and may recover other damages including reasonable attorney's fees. The broker materially violates the agreement if the broker does any of the following:

a. Makes false or misleading statements relative to the agreement.  
b. Does not comply with the agreement or the obligations arising from the agreement.  
c. Does not either grant the borrower a loan or diligently attempt to obtain a loan for the borrower.  
d. Does not comply with the requirements of this chapter.

2. A violation of this chapter is a violation of the Iowa consumer fraud Act, section 714.16.

3. Remedies under this chapter are in addition to other remedies available in law or equity.

Sec. 11. NEW SECTION. 535C.11 APPLICABILITY. This chapter does not apply to any activities or arrangements expressly approved or regulated by any regulatory body or officer acting under authority of this state, other than the administrator, or of the United States.

Sec. 12. Section 714.16, subsection 2, Code 1983, is amended by adding the following new paragraph:

NEW PARAGRAPH. A violation of a provision of sections 535C.1 through 535C.10 is an unlawful practice.

Sec. 13. Sections 1 through 11 of this Act are created as a new chapter 535C.

Approved May 25, 1983

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## CHAPTER 147

### REDUCTION OF SENTENCES OF INMATES

*S.F. 302*

**AN ACT** relating to the reduction of sentences of inmates committed to the custody of the director of the division of adult corrections of the department of social services.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Sections 2 through 8 of this Act are enacted as a new chapter of the Code.

Sec. 2. NEW SECTION. CONDUCT REVIEW. The commissioner of social services shall appoint independent hearing officers whose duties shall include but not be limited to review, as provided in section 4 of this Act, of the conduct of inmates in institutions under the department of social services, division of adult corrections.

Sec. 3. NEW SECTION. GOOD CONDUCT TIME. Each inmate of an institution under the department of social services, division of adult corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the division's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, or in an inmate educational program approved by the director. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 4 of this Act. Computation of good conduct time is subject to the following conditions:

1. Time served in jail or other facility, credited by the clerk of court prior to actual placement in a correctional institution, shall accrue for purposes of reduction of sentence under this section.

2. Time spent during escape shall not accrue for purposes of reduction of sentence under this section. An inmate who intentionally escapes may forfeit all good conduct time accrued and not forfeited prior to the escape.